

1 STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY

2 -----
3 HUGH C. SCHIEFER and
4 PATRICIA A. SCHIEFER,

5 Plaintiffs,

6 -vs-

Case No. 657-164

7 KEENE CORPORATION, a foreign corporation,
8 EAGLE-PICHER INDUSTRIES, INC., a foreign
9 corporation, OWENS-ILLINOIS, INC., a foreign
10 corporation, OWENS-CORNING FIBERGLAS CORP.,
11 a foreign corporation, ROCK WOOL MANUFACTURING
12 COMPANY, a foreign corporation, CELOTEX
13 CORPORATION, a foreign corporation, BUILDING
14 SERVICES INDUSTRIAL SALES CO., INC., a
15 Wisconsin corporation,

16 Defendants.
17 -----

18 Examination of DONALD C. POPALISKY,
19 called as a witness upon the trial, taken at the instance
20 of the Plaintiffs, under and pursuant to Chapter 804 of
21 the Wisconsin Statutes and the Acts amendatory thereof and
22 supplementary thereto, before LORI J. CUNICO, a Notary
23 Public in and for Milwaukee County, State of Wisconsin,
24 at offices located at 1710 South 106th Street, Milwaukee,
25 Wisconsin, on the 17th day of March, 1987, commencing at
10:00 o'clock in the morning.

A P P E A R A N C E S:

GOLDBERG, PREVIAINT, UELMEN, GRATZ,
MILLER & BRUEGGEMAN, S.C., by ALBERT J. GOLDBERG, ESQ.,
788 North Jefferson Street, Milwaukee, Wisconsin, appeared
on behalf of the Plaintiffs.

FOLEY & LARDNER, by RICHARD H. PORTER,
ESQ., 777 East Wisconsin Avenue, Milwaukee, Wisconsin,
appeared on behalf of all Defendants except Nicolet, Inc.,
Raymark, Inc. and Building Services Industrial Sales Company,
Inc.

ALBERT, JUDE & VAN REMMEN, S.C., by
JOHN S. JUDE, ESQ., 524 Seventh Street, P.O. Box 456,
Racine, Wisconsin, appeared on behalf of Building Services
Industrial Sales Company, Inc.

GREGORY B. HAYS, ESQ., 7635 West Blue-
mound Road, Milwaukee, Wisconsin, appeared on behalf of
Building Services Industrial Sales Company, Inc.

I N D E X

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P R O C E E D I N G S:

DONALD C. POPALISKY, called as a witness
herein by the Plaintiffs, having been first duly sworn,
was examined and testified as follows:

(Exhibit Nos. 1 and 2 were marked for
identification.)

E X A M I N A T I O N:

BY MR. GOLDBERG:

Q Would you state your name, sir.

A Donald C. Popalisky.

Q What was the --

A Popalisky.

MR. GOLDBERG: Could we go off the
record.

(Discussion off the record.)

BY MR. GOLDBERG:

Q Where do you live?

A Shorewood.

Q Address please.

A 4464 North Prospect.

Q And when were you born?

A August 4, 1919.

Q Okay. For whom do you work presently?

A Building Service Industrial Sales Company, Incorporated.

Q What is your status with them?

1 A Vice-president.

2 Q How long have you held that position?

3 A Three months -- two months.

4 Q When did you come to work for this company?

5 A Since -- since its inception, 1952 I think.

6 Q Okay. What was the job you entered when you came in
7 1952?

8 A It was a company, it was a partner.

9 Q When this company started out -- well, let's go --
10 let's get into that. The original identity of this
11 company was as a partnership; is that correct?

12 A That's right.

13 Q And that partnership -- what did that partnership
14 call itself from the inception?

15 A Building Service Industrial Sales Company.

16 Q In other words, that's essentially the same as its
17 present entity, only it is now incorporated, and as
18 its partner is styled with Inc.?

19 A That's correct.

20 Q When did it become a corporation? About when, any
21 idea?

22 A Greg? 1961? '62?

23 MR. HAYS: About '62.

24 MR. JUDE: We know from prior testimony
25 and -- I'm sorry, we know from prior depositions and

1 we will furnish that information to you, you've
2 requested it by way of interrogatory, it is August
3 26, 1964 was the date of inception of the corporation.

4 BY MR. GOLDBERG:

5 Q Who were the incorporators of the company?

6 A Myself and Joel I. Rachlin.

7 Q Joe who?

8 A Joel, J-o-e-l, Rachlin, R-a-c-h-l-i-n.

9 Q Was he one of the original partners?

10 A Yes.

11 Q And were there two partners to begin with?

12 A Yes.

13 Q In incorporating did you take over all the assets and
14 liabilities of the preexisting Building Service
15 Industrial Sales Company?

16 A Yes.

17 Q Did you take over the physical plant of that company?

18 A It wasn't a separate plant.

19 Q Well, I -- by that I mean the sales premises of that.

20 A We were all in the same offices, the two corporations
21 were in the same office.

22 Q Now, you say two corporations --

23 A Building Service, Incorporated was a separate company.
24 Building Service Industrial Sales Company, Incorporated
25 was in the same office as Building Service, Incorporated.

1 Q All right. Prior to the incorporation were there two
2 different companies then too or did you split into two
3 corporations, that partnership?

4 A No, we had a separate corporation, Building Service,
5 Incorporated was incorporated in 1947.

6 Q Okay. And who owned that corporation?

7 A Myself and Joel Rachlin, and I think John Ervan had
8 one share of it, I can't remember.

9 Q What was the difference in those two -- well, the
10 corporation and the partnership?

11 A One corporation was a construction company and the
12 other corporation sold materials.

13 Q Which one was the building company?

14 A It's separately.

15 Q It was -- the corporation though was the building one?

16 A You say the building?

17 Q You said they had two different roles.

18 A Are you saying billing or building?

19 Q Building.

20 A Building corporation was Building Service, Incorporated.

21 Q So that Building Service Industrial Sales Company was
22 the one that engaged in sales of building products;
23 is that correct?

24 A Right.

25 Q All right. Now, let's again take the successor

1 corporation of Building Service Industrial Sales
2 Company, it continued business in essentially the same
3 premise as -- well, strike that. The corporation
4 continued business in essentially the same premises
5 as Building Service Industrial Sales Company; is that
6 correct?

7 A That's correct, as far as the sales is concerned, they
8 had warehouses separately.

9 Q And did they have those same warehouses prior to
10 incorporating?

11 A Yes, some of them, not all of them.

12 Q Well, I mean the day before you became a corporation.

13 A Well, from two weeks afterwards we took another -- we
14 took and put more space in another building.

15 Q Right.

16 A Okay.

17 Q Did you maintain the same employees from the day you
18 -- the day before you became incorporated into the
19 corporation? And now whenever I say corporation I'm
20 referring to Building Service Industrial Sales Company,
21 Inc.

22 A Yes, we did.

23 Q And you assumed all the liabilities of the -- that is,
24 the corporation assumed all the liabilities of the
25 company; is that correct?

1 A To the best of my knowledge.

2 MR. JUDE: By company are you referring
3 to partnership?

4 MR. GOLDBERG: The non -- the partner-
5 ship.

6 MR. PORTER: Off the record.

7 (Discussion off the record.)

8 BY MR. GOLDBERG:

9 Q From now on whenever I refer to the corporation I
10 will specifically be referring to Building Service
11 Industrial Sales Company, Inc., and not to Building
12 Service, Inc. Okay.

13 MR. JUDE: Could we also clarify that
14 when you ask about the corporation that you -- that
15 that question also assumes that you're referring to
16 the predecessor partnership.

17 MR. GOLDBERG: Yes, yes, I'm sure that
18 there will be no confusion in that respect.

19 MR. JUDE: Okay.

20 BY MR. GOLDBERG:

21 Q Okay. Now, am I correct then, at the time of incorpora-
22 tion those persons who had been the partners that formed
23 Building Service Industrial Sales Company were John
24 Popalisky and Joel I. Rachlin; is that correct?

25 A Donald Popalisky.

1 Q Donald.

2 MR. GOLDBERG: Off the record.

3 (Discussion off the record.)

4 BY MR. GOLDBERG:

5 Q Had you taken in any more partners at the time by the
6 time you incorporated?

7 A At that specific date, no.

8 Q Had you taken any partners in in the interim who had
9 since dropped out? In other words, taking your forma-
10 tive date in 1952, until you became a corporation, had
11 anybody come in as a partner?

12 A No.

13 Q When you incorporated did you expand the number of
14 stockholders or did Joel I. Rachlin and Donald Popa-
15 lisky own all the stock in the corporation?

16 A At that specific time?

17 Q Yes.

18 A Yes.

19 MR. JUDE: The question was multiple in
20 form, could you clarify the question, unless I mis-
21 understood it.

22 MR. GOLDBERG: Read it back. It may
23 have been one of those that become multiple, yes.
24 Read it back.

25 (Question and answer read back.)

1 BY MR. GOLDBERG:

2 Q Let's break that down. At the time you became a
3 corporation -- or strike that. Subsequent to the time
4 you became a corporation did you get new stockholders?

5 A No.

6 Q Has there been any change in stockholders since the
7 time you became a corporation?

8 A Yes.

9 Q And do you remain a stockholder?

10 A Yes.

11 Q Who, if anybody, is a changed stockholder from the day
12 of incorporation?

13 A George Leisenring, Al Simonson, Tom Popalisky, Tom
14 Zeinert.

15 Q Tom who?

16 A Zeinert, Z-e-i-n-e-r-t. Scott Bauman.

17 Q What was the last name?

18 A Scott Bauman. Is that it, George?

19 GEORGE LEISENRING: Yes.

20 BY MR. GOLDBERG:

21 Q I note that Joel I. Rachlin no longer is listed as a
22 corporate stockholder; is that correct?

23 A He's still a stockholder.

24 Q All right. Would it be a correct statement then that
25 in addition to the five men you mentioned still

1 remaining as stockholders are Joel I. Rachlin and
2 Donald Popalisky?

3 A Yes.

4 Q Is that correct?

5 A George Leisenring is no longer a stockholder.

6 Q He is no longer a stockholder. Is that due to the
7 fact that George Leisenring has since terminated con-
8 nection -- any connection with this corporation?

9 A No, he has not terminated but he decided to sell his
10 stock.

11 Q Okay. Is -- what is the role now of Joel I. Rachlin?
12 What is his connection with the corporation?

13 A Now?

14 Q Right.

15 A Right this minute?

16 Q At the present time is what I'm talking about.

17 MR. JUDE: Other than stockholder?

18 MR. GOLDBERG: Yeah.

19 BY MR. GOLDBERG:

20 Q Other than stockholder is he connected in any active
21 capacity?

22 A No, he's not active at the present time.

23 Q When did he cease activity with the corporation?

24 A Several years ago, I don't know for sure.

25 Q Okay, thank you. Okay. Going back now to the year

1 when you became a partnership how many employees did
2 you have, if you can recall, at the time?

3 A Couldn't remember.

4 Q Well, what was -- what did the partners do? Let's take
5 each partner. What was the role of Donald Popalisky
6 at the time the partnership formed?

7 A Officially president.

8 Q As a partnership?

9 A No.

10 Q I'm talking about the partnership.

11 A Oh, all right. He was a partner.

12 Q And what -- as a partner did you take on specific
13 duties, such as the one in charge of sales and another
14 in charge of buying, or how did you work that at that
15 time?

16 A I guess everybody was part of everything except that
17 I work in the office most of the time. That's not
18 really true either, I guess, but I -- I said I can't
19 remember. I don't know what, but everybody, I guess,
20 did some of everything. We're talking about the two
21 of us.

22 Q Um-hmm. Well, to the best of your recollection it
23 would be a correct statement then that as you recall,
24 and it's redundant, you gave more of your time to
25 in-office work than the other partner would have; is

1 that correct?

2 A No. I don't remember to be very frank with you.

3 Q Okay. Would it be a correct statement then that in
4 the setup you had you pretty well interchanged duties,
5 did everything?

6 A Joel didn't do any of the book work, but other than
7 that.

8 Q But you did the book work? Your answer is yes?

9 A Yes.

10 Q Who did the buying for the partnership at that time?

11 A Several people. Bob Friauf and George Leisenring did
12 buying, I did buying.

13 Q Did you have a designated sales force at that time
14 that only did sales?

15 A George Leisenring and Bob Friauf, but it's hard to say,
16 they also worked in the office upon occasion.

17 Q And the second name was -- what was that?

18 A Friauf, F-r-i-a-u-f, Robert. I recall he bought a lot
19 of materials for his customers only.

20 Q Okay. Well, you're talking about Friauf now?

21 A Yes.

22 Q When you say his customers only explain what you mean
23 by that.

24 A Well, he had certain customers that needed certain
25 items that we wouldn't normally stock, miscellaneous

1 items, and he would secure them for them.

2 Q Was Sprinkmann one of his customers?

3 A I don't know.

4 Q Do you know who were some that you would have speci-
5 fically designated as his customers?

6 A All I can say is he traveled the northern part of the
7 state.

8 Q Okay. Now, I want to go back to the time before the
9 partnership was formed, for whom did you work before
10 this partnership was formed?

11 A Building Service, Incorporated.

12 Q Were you a stockholder in that company?

13 A Yes.

14 Q And have you continued to be a stockholder in that
15 company to this date?

16 A No.

17 Q Does that company exist yet?

18 A Yes.

19 Q Okay. When did you cease to be a stockholder in that
20 company?

21 A Two -- three years ago, I don't remember which.

22 Q Okay. Have you worked for anybody before you went to
23 work for that other corporation that I've referred to?

24 A I worked for the Shock Machine Company.

25 Q What kind of work did you do for them?

1 A I was in the assembly department.

2 Q Okay. What products did they deal with?

3 A Machine tools, fabrication of tools for the foundry
4 type of thing. I don't exactly remember what they
5 did.

6 Q Okay. Did you personally do sales during those partner-
7 ship years? I'm talking now from 1952, apparently,
8 until 1964. Did you?

9 A Yes.

10 Q Did you have any specific customers that you've con-
11 sidered your sales customers?

12 A No.

13 Q What kind of products did your company sell in those
14 years?

15 A Basically glass products and accessory items.

16 Q What type of glass products are we talking about?

17 A Fiberglass board pipe covering.

18 MR. GOLDBERG: Off the record.

19 (Discussion off the record.)

20 BY MR. GOLDBERG:

21 Q Did that include fiberglass insulation?

22 A Glass insulation, yes.

23 Q Were there other building products made of fiberglass
24 that your company sold at that time?

25 A I don't think they had anything else, no.

1 Q Then you used the phrase glass products and accessories,
2 what accessories did you --

3 A Well, stick clip, for example, was a clip that you
4 could cement to a wall and then impale the fiberglass
5 over it and put a clip on it to hold it in place, to
6 hold the clip in place, that type of thing.

7 Q Do you recall from whom you purchased the fiberglass
8 insulation?

9 A Owens-Corning Fiberglas.

10 Q This clip accessory you have described, was that fur-
11 nished as a product of Owens-Corning?

12 A It wasn't a clip insulation, it was a clip.

13 Q A clip product?

14 A Right. No, it wasn't from this, it came from the
15 Stick Clip Manufacturing Company.

16 Q Now, was that the only accessory we're talking about
17 or were there others?

18 A I remember buying aluminum bands to hold pipe coverings
19 together, but I don't remember anything else.

20 Q These accessories you're talking about, would it be a
21 correct statement that essentially they were acces-
22 sories to the insulation product regardless of -- or
23 insulation procedure regardless of what product we're
24 talking about; would that be a correct statement?

25 A They were used to install the material, if that's what

1 you're saying.

2 Q But of insulation products generally?

3 A Insulation products and others too. The banding of the
4 pipe covering obviously didn't, but the stick clip
5 could have been used for anything, I don't know what
6 they used it for.

7 Q But the -- would it be a correct statement then that
8 the products that you're -- that that company was using,
9 Building Service Industrial Sales Company was pretty
10 narrowly used for supplying or was supplying insula-
11 tion products aside from the fact that they might be
12 used for other, but their primary purpose was intended
13 to be used for insulation; would that be a correct
14 statement?

15 A Yes.

16 Q As a part of that supplying of insulation products
17 you supplied a product called Kaylo, spelled K-a-y-l-o;
18 is that correct?

19 MR. JUDE: I'm going to object as to
20 vague and indefinite as to time and ask you to be more
21 specific.

22 BY MR. GOLDBERG:

23 Q Just first let's lay in a foundation for the next
24 question which will pin down time. Did you supply
25 at anytime during the partnership tenure, before it

1 became a corporation, did you deal in a product called
2 Kaylo, K-a-y-l-o?

3 A I don't remember when we started using --

4 Q I just asked you --

5 A Yes, we used it.

6 Q -- did you, that's all I asked you at this time.

7 MR. JUDE: Well, I guess to clarify
8 here, you had -- you had put in the time frame during
9 the partnership, which means from '52.

10 MR. GOLDBERG: Right, now that's the
11 time frame I'm referring to.

12 MR. JUDE: From '52 to '64?

13 MR. GOLDBERG: Right.

14 MR. JUDE: And is that -- Pop, is that
15 the time frame that you're referring to or are you --

16 A I don't really remember when we started using Kaylo.

17 BY MR. GOLDBERG:

18 Q Let's take the decade from 1950 -- well, let's take the
19 years from 1952 up to 1960, up to it. Have you any
20 independent recollection that your company dealt in
21 Kaylo during that period?

22 A Yes.

23 Q To the best of your recollection, in that period, when
24 did you first start to deal in Kaylo?

25 A I don't remember.

1 Q Well, let's work back. You said yes, so probably 1959
2 would be one of the years?

3 A Probably.

4 Q To the best of your recollection, and based upon a
5 probability, would 1958 have been one of those years?

6 A I couldn't remember.

7 Q You cannot then give me an answer for any years other
8 than 19 -- as a probability, other than 1959; is that
9 correct?

10 A A probability, I can say yes, but I don't know definitely.

11 Q Okay. As a probability though you would say what would
12 be the earliest year you used it as a product, to the
13 best of your recollection?

14 A I don't remember to be frank with you. '57 -- '58 --
15 '59.

16 Q Do you recall when you first heard of the product
17 called Kaylo?

18 A Yes. No, I don't remember when I first heard about
19 Kaylo. Kaylo is a product that we handled when I
20 first heard of it.

21 Q You first went into this partnership in 1952, did you
22 hear about it in the early years of that partnership?

23 A No, I don't remember because Fiberglas bought the
24 product from Owens-Illinois, they bought the manu-
25 facturing process and everything else, and when that

1 was I don't know.

2 Q Let's put it this way, did you only deal with Owens-
3 Corning in getting insulation supplies?

4 A Yes.

5 Q That was your only company from 1952 on that you
6 ordinarily --

7 A Are you talking about '52 on or are you talking about
8 all the way up to 1973?

9 Q No, no, I'm taking the -- let's take that era again
10 of 1952 to 1959.

11 A Yes.

12 Q Let's direct ourselves only to that. Was Owens-Corning
13 Fiberglas the only company, or essentially the only
14 company from whom you bought the product that you are
15 purveying in your partnership?

16 A We bought the Unarco product.

17 Q What product did you buy from Unarco?

18 A High temperature insulation.

19 Q Do you remember the name of that high temperature
20 insulation?

21 A I do now but I didn't then.

22 Q What was that product?

23 A It was Unibestos.

24 Q When did you start to buy Unibestos?

25 A I don't recall. Early part of the period, that's all

1 I can --

2 Q The early what?

3 A The early part of the period, but I don't remember
4 when.

5 Q And was that Unarco's Unibestos insulation, pipe
6 insulation?

7 A Yes.

8 Q You have a personal recollection early in that period
9 you started -- you purveyed Unibestos?

10 A I sold -- our company sold Unarco, Bob Friauf handled
11 the high temperature insulation, which is what this
12 product is.

13 Q But your company did sell it?

14 A We sold Unarco, it's a high temperature insulation.
15 I didn't know what the generic name was for it.

16 Q You have learned since --

17 A I have learned since.

18 Q -- that it was Unibestos?

19 A Right.

20 MR. GOLDBERG: Off the record.

21 (Discussion off the record.)

22 BY MR. GOLDBERG:

23 Q Were you -- are you aware that Unarco manufactured a
24 Unibestos block?

25 A I think they had block.

1 Q Okay. And that was high temperature also; is that
2 correct?

3 A Right.

4 Q Did you, at anytime during the period 1952 to 1959,
5 know that Kaylo contained asbestos fiber?

6 A No.

7 Q Did you know what were the ingredients that made up
8 Kaylo?

9 A No.

10 Q When I mentioned -- say Kaysill, would that mean any-
11 thing to you in relationship to Kaylo?

12 A No.

13 Q In the period 1952 to 1959 did you observe the package
14 in which Kaylo came to your plant?

15 A No.

16 Q You never specifically -- am I correct that you never
17 specifically looked at the package in which Kaylo was
18 delivered?

19 A That's correct, to the best of my knowledge I didn't
20 go out in the warehouse and examine any boxes of any
21 products.

22 Q Okay. Now, direct the questions to Unibestos, and I'm
23 going to ask essentially the same questions. Did you,
24 at anytime from 1952 to 1959, know that Unibestos
25 contained asbestos fiber?

1 A I didn't know that Unarco handled an asbestos product.

2 Q Okay. And did you ever observe the package in which
3 Unibestos products --

4 A No.

5 Q -- was delivered to you? Well, your answer, if you'd
6 heard the whole question, would have been no essentially,
7 okay?

8 MR. PORTER: Let the record show that
9 the witness nodded his head yes.

10 BY MR. GOLDBERG:

11 Q Yes, his answer would have been no in distributing
12 Owens-Corning Fiberglas Company products, and that is
13 the company we're talking about; is that correct?

14 A Excuse me?

15 Q When you said Owens-Corning -- you said you had bought
16 products from Owens-Corning?

17 A Yes.

18 Q There is a company called Owens-Corning Fiberglas
19 Company, is that the company we're both talking about
20 when you say Owens-Corning?

21 A That's my understanding, yes.

22 Q Okay. When you were distributing their products in
23 the partnership do you know if you had an exclusive
24 right of distribution in any territory?

25 A No, we did not.

1 Q You're answering that you -- you, in effect, are saying
2 that you knew what your arrangement was and it was not
3 an exclusive right of distribution; is that correct?

4 A I don't know, I don't know what our arrangement was,
5 but it was not exclusive.

6 Q Do you know anybody else that had the right to dis-
7 tribute their product from 19 -- when you went into
8 partnership in 1952 and through 1959?

9 MR. JUDE: In a specific geographic area?

10 BY MR. GOLDBERG:

11 Q In the geographic area that you worked or sold.

12 A You would have to ask the question again.

13 Q Aside from yourself distributing Owens-Corning Fiber-
14 glas insulation products do you know of anybody else
15 -- let's take the Milwaukee County, do you know of
16 anybody else that was a distributor of their -- or
17 seller of their products?

18 A Fiberglas sold direct.

19 Q Okay. Did you --

20 MR. PORTER: Off the record.

21 (Discussion off the record.)

22 BY MR. GOLDBERG:

23 Q When you said Fiberglas you're using the popular name
24 by which Owens-Corning Fiberglas was known; correct?

25 A Yes.

1 Q Within the trade it's like saying the Brewers instead
2 of their official corporate name?

3 MR. JUDE: Band-Aids.

4 MR. GOLDBERG: Hmm?

5 MR. JUDE: Band-Aids, yeah.

6 BY MR. GOLDBERG:

7 Q We've established that aside from your company Owens-
8 Corning Fiberglas Company sold directly to consumer
9 builders or other companies during that period from
10 1952 to 1959, that's one we've established; is that
11 correct?

12 A That's correct.

13 Q All right. Let's go further then. Any other company
14 that you knew of or you know of now that dealt in
15 their products during that period, 1952 to 1959?

16 A You mean did they sell to somebody to resell to some-
17 body else?

18 Q Yes, yes, yes. Do you know of any?

19 A No, I don't know of any.

20 Q Okay. You're not saying they didn't sell it to anybody
21 else, just you don't know it?

22 A I don't know it.

23 Q Okay. During that period, 1952 to 1959, what was your
24 sales district?

25 A I would have to answer I suppose it -- it -- it -- I --

1 it was Wisconsin.

2 Q Well, I notice you did mention that Bob Friauf --
3 Friauf or Friauf?

4 MR. JUDE: Friauf.

5 BY MR. GOLDBERG:

6 Q Had the Northern Wisconsin district, so at least you
7 were selling in Northern Wisconsin area?

8 A We were in Wisconsin.

9 Q Generally whomever you could sell to in Wisconsin,
10 those were your customers?

11 A Yes.

12 Q Do you know if you sold to Johnson Insulation in
13 Madison?

14 A Insulation products?

15 Q Yes.

16 A Yes.

17 Q During that period, from 1952, when you became a partner-
18 ship, through 1959, was Sprinkmann & Sons Company one
19 of your customers?

20 A To a very limited degree. They bought from us when
21 they ran out of something that they couldn't get and
22 they needed something right now.

23 Q Okay. Of your own knowledge do you know if you sold
24 them any Kaylo?

25 A No, I don't know.

1 MR. JUDE: You're talking, again, we're
2 in a time frame from '52 to '59?

3 MR. GOLDBERG: Yes, I still -- I want
4 to keep that time frame.

5 BY MR. GOLDBERG:

6 Q You -- is it a correct statement that you did sell
7 them some products during that period of 1952 to 1959;
8 is that correct?

9 A Yes.

10 Q Did you personally take any orders from Sprinkmann
11 during that period?

12 A I personally?

13 Q Yes.

14 A No.

15 Q Do you know who dealt with them during that period?

16 A I don't remember. I could have taken an order, I
17 suppose, I don't remember to be very frank with you.
18 I didn't have any dealings with them, calling on them
19 or anything else.

20 Q Have you records that would show when you started to
21 buy Kaylo from Owens-Corning?

22 A No, just the -- the books that you -- when we bought
23 Kaylo from them. I don't know when we started, we
24 didn't identify by product, it was just company.

25 Q Do you know when you -- if your company sold any

1 Unibestos to Sprinkmann & Sons during that period,
2 1952 to 1959?

3 A Not to the best of my knowledge.

4 Q You just don't know?

5 A I don't know.

6 Q You're not saying you didn't sell it to them?

7 A I -- I don't remember.

8 Q Did you have an exclusive right of sale of Unarco
9 products in the Milwaukee area?

10 A No.

11 Q To your knowledge who else had handled Unarco products
12 in the Milwaukee area?

13 A I don't know.

14 Q And again, we're always talking about from '52 to '59,
15 you understand?

16 A I don't know.

17 Q Did Owens-Corning Fiberglas ever provide you with any
18 kind of sales literature describing their products
19 during 1952 to 1959?

20 A Yes.

21 Q And what kind of literature did they provide you?

22 A Form literature, standard literature, two-page
23 literature on the products that they sold.

24 Q Do you have that literature yet?

25 A No.

1 Q Do you recall reading that literature in that time?

2 A Do I recall reading it, no.

3 Q Do you recall reading any literature that described
4 Kaylo?

5 A No.

6 Q You remember reading any literature from Owens-Corning
7 Fiberglas that mentioned that their Kaylo had asbestos
8 fiber in it?

9 A They didn't have it in their literature, they just
10 listed -- they didn't list basically what went into
11 the composition of products, like the binders and that
12 type of thing.

13 Q Well --

14 A They gave the -- their literature was based on what
15 it would do, what the performance was rather than the
16 content.

17 Q How do you know?

18 A I said I don't remember for sure, but I remember all
19 the literature I've seen since, and I assume it's all
20 the same literature. I can't answer that question.

21 Q All right. Referring to that period of 1952 to 1959,
22 first you made some sales; is that correct?

23 A Yes.

24 Q Who else might have made sales during that period?

25 A George Leisenring and Bob Friauf.

1 Q Those are the only two?

2 A Yes.

3 Q What about Joel Rachlin?

4 A Well, he could have made some but I don't remember.

5 Q Is Joel Rachlin still living?

6 A Yes.

7 Q Have you got an address for him?

8 A The young lady in the office does, I don't.

9 Q Okay. Is he living in Milwaukee?

10 A He's living in Arizona.

11 Q Did you have -- in that period of 1952 to 1959 you had
12 -- you did have a warehouse for the products; is that
13 correct?

14 A We shared a warehouse, plus other single products, but
15 they were in different warehouses.

16 Q I'm not quite tracking that. You had other single
17 products, are you saying your company?

18 A Single warehouse, we had a warehouse, we shared a
19 warehouse, and we had a separate warehouse for insulat-
20 ing products.

21 Q Okay. Who was in charge of your warehouse when you
22 started the partnership?

23 A First person that I can remember that -- I don't
24 remember who started, but Rip Yandrt.

25 Q And what was his first name?

1 A Rupert.

2 Q Rupert. Is he living presently?

3 A No.

4 Q When did he die?

5 A I don't know.

6 Q To the best of your knowledge then who would be the
7 next person you can remember was in the warehouse?

8 A I don't know who would be the next one, the present
9 man has been there for some time.

10 Q Who?

11 A The present warehouse superintendent has been there
12 for some time but I don't know when he started..

13 Q When did he start? What's his name?

14 A Dick Hardstad.

15 Q Would your office have a record of when he did start
16 with that -- your company, your partnership?

17 A I don't know how far back the payroll records go.

18 Q Would you provide counsel -- I'm talking about Mr. Jude
19 now -- with the work record of Mr. Hardstad depending
20 -- meaning when he first started to work for you and
21 his tenure since then?

22 A Yes.

23 Q Is he still with your company?

24 A Yes.

25 Q How old of a man is he?

1 A I don't know. Young by my standards.

2 Q Okay. Now, let's go into the era starting with 1960
3 to 1964 when you were still a partnership. Is it a
4 probable -- a correct statement that at least by 1960
5 you were handling Kaylo?

6 A Yes.

7 Q And did you continue then to handle Kaylo through the
8 period when you finally became a corporation?

9 A Yes.

10 Q And during that period did you sell any Kaylo to
11 Sprinkmann Sons Corporation?

12 A Yes.

13 Q Did you ever, in that period, observe the package in
14 which Kaylo came?

15 A No.

16 Q By the way, I'd like to go in -- did you handle both
17 Kaylo pipe covering and Kaylo block?

18 A Yes.

19 Q And would that be essentially both during the period
20 that you handled -- that you have some recollection
21 of handling Kaylo?

22 A Yes.

23 Q Your answer is yes. Taking that same period now, this
24 series of questions will be addressed to the remaining
25 period of the partnership. During that period did you

1 handle Unarco products?

2 A No.

3 Q Had the ownership -- strike that. Did you handle
4 Unibestos products?

5 A No.

6 Q When did you cease to handle Unibestos?

7 A I don't remember.

8 Q But you do feel -- or it's your best recollection that
9 you had ceased to handle them by 1960 to 1964?

10 A Yes.

11 Q Are you aware that in that period the manufacturer of
12 Unibestos had changed to Pittsburgh-Corning? Are you
13 aware of that?

14 A No.

15 Q Did you start to handle Pittsburgh-Corning products
16 during that period?

17 A No.

18 Q Had you -- have you ever handled, as a partnership,
19 Pittsburgh-Corning products?

20 A Not to the best of my knowledge, no.

21 Q Do you have an independent recollection as to when
22 you stopped -- I may have asked this but -- and if I
23 did we'll go over the same ground -- when did you stop
24 using -- handling Unibestos products?

25 A When Fiberglas bought the Kaylo operation from Owens-

1 Illinois.

2 Q And if I tell you that they bought it in 1958 would
3 that be an indication of when you stopped handling the
4 Unibestos?

5 A If you tell me they stopped --

6 Q They --

7 A 1958 was the year that I would say yes, that's when
8 we started and we used Kaylo as a major product.

9 Q Are you saying -- and tell me if this is a correct
10 statement then -- that until Owens-Corning Fiberglas
11 became the manufacturer of Kaylo you did not handle
12 it? Do you understand my question or is it too devious?

13 A Well, what you're asking me is -- is I don't know when
14 Fiberglas bought Kaylo. Prior to that time I don't
15 think that we handled anything from Owens-Illinois
16 if that's what you're asking.

17 Q That's what I'm asking. How old -- strike that. If
18 -- if Owens-Corning Fiberglas were -- had been a dis-
19 tributor of the Kaylo products for Owens-Illinois from
20 1952 until 1958 would that influence your answer as to
21 whether you handled Kaylo before 1958?

22 A To the best of my recollection we started to handle
23 Kaylo when Fiberglas bought -- I didn't even know that
24 Fiberglas was a distributor of Kaylo.

25 Q Was a what?

1 A I didn't know they were a distributor of Kaylo. We
2 started handling Kaylo when Fiberglas offered the
3 product.

4 Q Well, then you're not sure if they offered it before
5 1958; is that correct?

6 A No.

7 MR. PORTER: No, that is not correct?

8 BY MR. GOLDBERG:

9 Q It is correct?

10 A Yes, it is correct.

11 Q That is correct. Well, then is it your statement --
12 would it be -- I want to say this so it won't be one
13 of these oddball answers -- is it correct so far as
14 you can recollect that when Owens-Corning started to
15 manufacture Kaylo you then ceased to handle the
16 Unibestos?

17 A I don't know when we stopped using Unibestos.

18 Q Okay. You have no independent recollection then and
19 you cannot say to any degree of probability that you
20 did not handle the Kaylo and the Unibestos at the same
21 time? Your answer is you cannot?

22 A No, I -- that's what --

23 MR. JUDE: I'm just saying take some
24 time and answer. I'm not sure that you are answering
25 his question, or thinking about answering his question.

1 Are you thinking of something else?

2 A I'm trying to think of what he's asking me.

3 MR. PORTER: Off the record.

4 (Discussion off the record.)

5 BY MR. GOLDBERG:

6 Q Did you -- to the best of your recollection did you
7 sell both Unibestos and Kaylo at the same time?

8 A That is possible.

9 Q Good question. But you -- your answer then is --
10 implies --

11 A No, I don't know.

12 Q You have no independent recollection?

13 A Right.

14 Q Is it possibly true, therefore, that you were handling
15 Unibestos before you started to handle Kaylo?

16 A We handled Unarco products. You keep inserting the
17 word Unibestos.

18 Q I meant Unarco products.

19 MR. JUDE: Okay.

20 BY MR. GOLDBERG:

21 Q And so your answer is that you're probably handling
22 Unarco products prior to the time you started using
23 Kaylo?

24 A Yes.

25 Q Now, I want to put that all in perspective that you

1 were using Owens-Corning Fiberglas products, which may
2 not have been Kaylo, from the time you opened your
3 partnership?

4 A That's correct.

5 Q Now, taking that period again of 1960 to 1964 did you
6 personally, so far as you can recall, make any sales
7 to Sprinkmann & Sons Company?

8 A No.

9 Q In other words, you're saying you have no personal
10 recollection?

11 A No personal recollection.

12 Q Does that exclude an answer though that you may have
13 made some sales to them?

14 A I would not have sold Kaylo products to them because
15 I didn't handle high temperature insulation.

16 Q Okay.

17 MR. JUDE: You're talking of him
18 personally?

19 MR. GOLDBERG: Yes, oh yeah.

20 BY MR. GOLDBERG:

21 Q You personally, I was talking about you personally.
22 However, during that period your company did sell
23 Kaylo products to Sprinkmann Sons Corporation --

24 A Yes.

25 Q -- is that correct? Now, I'm going to show you Exhibit

1 No. 1, and ask you to examine that. All right, you've
2 examined that?

3 A Is this the first page or do you want me to go through
4 it all or what?

5 Q Yeah, glance through it so that you're familiar with
6 what in general it is.

7 A It's up to 1971, we're not talking about that yet.

8 Q Well, in general I'm asking you what this is, that's
9 all.

10 A I know what it is.

11 Q Do you know who prepared -- got this together?

12 A Got the information together?

13 Q Yes.

14 A I did.

15 Q And how did you go about getting this information?

16 A I examined the records sitting on the table in the
17 corner.

18 Q I note that there are records of sales to Sprinkmann
19 & Sons in 1962, and then there's a skip to 1971 when
20 the company, by the way, had already been incorporated
21 by 1971; is that correct?

22 A Yes.

23 Q Did you so examine all of those records so that you
24 could say you did not find any other sales between
25 1962 and 1971?

1 A To the best of my knowledge that's it.

2 Q Those are the only ones you found --

3 A That's correct.

4 Q -- is that correct? Okay. All right. Now, addressing
5 ourselves again from 1960 to 1964, did you see the
6 package in which Kaylo came to your premises?

7 A No.

8 Q From 1960 until 1964 was there any literature concern-
9 ing the product that Owens-Corning Fiberglas was sell-
10 ing you that was sent to your -- at your company?

11 A I presume there was.

12 Q Do you remember any literature concerning Kaylo in
13 that period? We're talking about that period.

14 A I don't know it specifically, no.

15 Q For the remainder of the period that you were a partner-
16 ship did you continue to handle Owens-Corning Fiberglas
17 products?

18 A Yes.

19 Q Did you handle any other companies' products? I'm
20 talking now about insulation products.

21 A We handled -- George, you know, you worked for them.

22 MR. JUDE: Just to the best of your
23 recollection.

24 BY MR. GOLDBERG:

25 Q The best of your recollection.

1 A Best of my recollection, no.

2 Q Okay. I am now going to address myself to the period
3 that you -- the company was a corporation. Did the
4 corporation continue to handle Owens-Corning Fiberglas
5 products?

6 A Yes.

7 Q Did they -- did you handle any other companies'
8 products after you became a corporation?

9 A Yes.

10 Q Who -- what other companies' products? I'm referring
11 to insulation products.

12 A Yeah, I know that but I don't remember the name.
13 George, can you remember the name?

14 MR. JUDE: Just do the best you can.

15 BY MR. GOLDBERG:

16 Q I'll get to George.

17 A Okay. No, I don't remember the name.

18 Q Okay. Was it more than one company do you think?

19 A No, it was one.

20 MR. JUDE: Just so the -- just so the
21 answer is clear, the record isn't misled here, there
22 are records in existence of sales, and I assume by
23 referring to records we can refresh our recollection
24 as to who our customers were.

25 MR. GOLDBERG: I was talking about

1 purchases from other companies.

2 MR. JUDE: Or purchases from other
3 companies.

4 MR. GOLDBERG: Yeah.

5 MR. JUDE: Both.

6 BY MR. GOLDBERG:

7 Q Have you, prior to this time, made any examination to
8 find out what other companies you -- from whom you had
9 purchased products? And I'm talking about the corpora-
10 tion now.

11 A We bought insulating cement.

12 Q Did Owens-Corning Fiberglas provide an insulating
13 cement?

14 A Not to the best of my knowledge.

15 Q Do you know whose insulating cement you bought?

16 A We bought Eagle-Picher.

17 Q All right. I'm going to be going back now to the period
18 of the partnership between 1952 and 1959, did you deal
19 in insulating cement in that period?

20 A I don't recall, I don't know.

21 Q What is the first time that you remember buying or
22 using or selling an insulating cement?

23 A I don't know.

24 Q Do you know whether the partnership at any time during
25 this tenure sold insulating cement?

1 A Specifically I don't know.

2 Q You do remember --

3 A I don't remember.

4 Q You do remember the company named Eagle-Picher?

5 A That's correct.

6 Q That's correct. And you do remember at some time
7 selling their cement; that is correct?

8 A Correct.

9 Q Do you have any independent recollection of when you
10 started to sell their cement?

11 A No.

12 Q Do you remember selling any insulating cement during
13 your partnership years?

14 A No.

15 Q You are not -- correct me if I'm wrong -- you are --
16 is it true that you are not excluding the possibility
17 that you sold insulating cement in -- from 1952 to 1959?

18 A We could have.

19 Q And you are not excluding the possibility that that
20 could have been Eagle-Picher?

21 A That's correct.

22 Q If I mentioned a name, Eagle Sixty-Six, now you recall
23 that specific tradename of a product?

24 A No.

25 Q At no time either?

1 A I don't recall.

2 Q Okay. I want to show you now what has been marked as
3 Exhibit No. 2, and take a look at that all the way
4 through, you know, just -- just overview.

5 A I don't know what ledger these came out of, whether
6 they came out of a sales ledger or purchases ledger.

7 Q That was going to be my next question. You have looked
8 at Exhibit No. 2, did you have anything to do with
9 getting this specific exhibit together?

10 A No.

11 Q Do you know who did do that?

12 A No, wherever you got it from I guess.

13 Q You do have a bookkeeper?

14 MR. JUDE: Let's go off the record for
15 a second.

16 (Discussion off the record.)

17 BY MR. GOLDBERG:

18 Q Who is the bookkeeper in the years 1952 through 1956?

19 A I was part of the period.

20 Q As such bookkeeper, and looking at these ledger sheets,
21 would you recognize what was the code or what did these
22 entries mean?

23 A I don't know where you got them, I don't know where
24 they came from, whether they came from a purchase
25 journal or a sales journal.

1 Q Well, you've mentioned the two things, a purchase
2 journal and a sales journal, to what did the purchase
3 journal address itself?

4 A Materials that we purchased.

5 Q Okay. And then the sales journal would be to whom you
6 sold it; is that correct?

7 A Yes.

8 Q Did you ever buy any products from Sprinkmann & Sons
9 Company from 1952 on while you were a partnership?

10 A I don't know.

11 Q You have no personal --

12 A No.

13 Q -- independent recollection? All right. Now, showing
14 you this ledger sheet, let's take the first page of
15 that ledger sheet, and I notice something that looks
16 like a heading F-O-L, address yourself to that.

17 A It's not my writing, I don't know what that is.

18 Q Okay. But did you, in that period, prepare a sales
19 ledger?

20 A No.

21 Q So as a bookkeeper you didn't have contact with any
22 such records; is that correct?

23 A No.

24 Q Who else would have been a bookkeeper at that time?

25 A I don't remember, it's not my writing so that's --

1 MR. PORTER: Can we go off the record.

2 MR. GOLDBERG: Yeah.

3 (Discussion off the record.)

4 BY MR. GOLDBERG:

5 Q Then under F-O-L there are a bunch of items that are
6 marked P, like P46, P47, one item that is C-D, the way
7 it looks, do you know what the reference is in putting
8 P46, seems to run in fact --

9 A I would presume that's a purchase, and the C-D has
10 got to be the cash disbursements, that's probably a
11 C-D. So that's purchases from Sprinkmann.

12 Q We knew --

13 MR. JUDE: Off the record for a second.

14 (Discussion off the record.)

15 BY MR. GOLDBERG:

16 Q Looking at the first page of -- and it seems to be
17 marked 31 in the corner, upper right-hand corner --

18 A Um-hmm.

19 Q -- is any item -- any entry on that page which would
20 identify what the product was that was sold to Sprink-
21 mann?

22 A That was a purchase from Sprinkmann.

23 Q Purchase from Sprinkmann?

24 A That's correct.

25 Q What products were you buying from Sprinkmann?

1 A I don't know what it was, I don't know what it was.

2 Q Let's turn to Page -- something that has something in
3 the upper corner, 119, which is about four pages down.

4 A Okay.

5 Q Looking at that would you identify that as recording
6 their purchases from your company?

7 A Right, yes.

8 Q Is there anything on that record that would enable
9 one to identify what the product was they bought?

10 A No.

11 Q And that would be true for Pages 117, that's the next
12 page? Well, 119's out of order, that's the trouble
13 there. It goes 117, 119. Anyway, this batch I have,
14 does that --

15 MR. JUDE: Do you have 118?

16 MR. GOLDBERG: Yeah, it follows 117.

17 Off the record.

18 (Discussion off the record.)

19 BY MR. GOLDBERG:

20 Q Your answer to my question, which was directed to Page
21 119, is -- would be the same if I directed your atten-
22 tion to 117 and 118, to wit, nothing on those pages
23 would be -- allow you to identify what product was
24 purchased --

25 A No.

1 Q -- is that correct?

2 MR. JUDE: Did he make a correct state-
3 ment?

4 A I do not know what products were purchased.

5 BY MR. GOLDBERG:

6 Q Directing your attention to 3 -- Page 348, can you find
7 that?

8 A Yes.

9 Q Can you tell from that -- well, strike that. Is that
10 a purchase sheet of Sprinkmann buying from you -- your
11 company?

12 A Yes.

13 Q And is there anything on that page which would enable you
14 to identify that product was purchased from -- by
15 Sprinkmann from you?

16 A No.

17 MR. JUDE: Is that a mis -- I believe
18 you made a misstatement on that question, if we could
19 back up.

20 MR. GOLDBERG: Read it back then.

21 (Question read back.)

22 BY MR. GOLDBERG:

23 Q And your answer is, there is nothing thereupon that
24 would enable you to identify; is that correct?

25 A No.

1 Q Referring -- I don't know how far I got, but let's say
2 I hadn't gotten yet to 349, 350, 351, 352, 353, 354
3 and 355, referring to that -- those pages as a group,
4 and considering them as a group, is it a correct state-
5 ment that nothing on any of those pages would enable
6 you to identify what product was purchased from your
7 company by Sprinkmann? I'm asking you if that's a
8 correct statement.

9 A Repeat the question.

10 Q All right. Can you identify from looking at the figures
11 on those -- or entries on those pages, which I have
12 enumerated, identify any product that was purchased
13 by Sprinkmann from your partnership?

14 A No.

15 Q I don't know if I asked you this question, is Bob
16 Friauf still living?

17 A Yes.

18 Q Do you know where?

19 A No. He's in the phone book, living on Woodburn Avenue
20 but I don't know where.

21 MR. GOLDBERG: Off the record.

22 (Discussion off the record.)

23 BY MR. GOLDBERG:

24 Q Is he still working for your company?

25 A No.

1 Q When did he cease to work for your company?

2 A Five years ago -- six years ago.

3 Q When did he first start to work for your company?

4 A I don't remember.

5 Q As a -- did he work for your company when it was a
6 partnership?

7 A Yes.

8 Q You mentioned before that he was the salesman who
9 directed his attention to the high temperature insula-
10 tion products; is that correct?

11 A Yes.

12 Q You also -- is it true that you indicated that he
13 essentially worked the northern part of the state in
14 dealing with those products?

15 A Yes.

16 Q Did he deal with any customers in the Milwaukee area?

17 A He could have.

18 Q Could he have dealt with Sprinkmann?

19 A He could have.

20 Q When did George Leisenring come to work for your
21 company?

22 A I don't remember.

23 Q Or Mr. Simonson, when did he come to work for the --

24 A I don't remember.

25 Q I'm talking about either the partnership or the

1 corporation.

2 A Leisenring was there in the partnership.

3 Q What about Simonson?

4 A I don't remember.

5 Q Did this -- all right. Tom Popalisky, is that a rela-
6 tive of yours?

7 A Yes.

8 Q And that's what, a son?

9 A Son.

10 Q Is he an employee of the company?

11 A Yes.

12 Q When did he come to work for the company?

13 A Three or four years ago.

14 Q Tom Zeinert?

15 A Zeinert.

16 Q How do you spell that again?

17 A Z-e-i-n-e-r-t.

18 Q Is he an employee of the company?

19 A Yes.

20 Q Did he work for the partnership?

21 A No.

22 Q Scott Bauman, is he an employee of the company?

23 A Yes.

24 Q Did he work for the partnership?

25 A Not to the best of my knowledge.

1 Q I think that's all.

2 (Short break taken.)

3 E X A M I N A T I O N:

4 BY MR. PORTER:

5 Q Just for the record, sir, you have identified what has
6 been marked as Exhibit 2 as copies of Building Service
7 Industrial Sales Company records of one sort or another;
8 correct?

9 A Yes.

10 Q And you have identified what has been marked as Exhibit
11 1 as records of one kind or another of Building Service
12 Industrial Sales Company?

13 A Yes.

14 Q Have any of your employees had an asbestos-related
15 disease?

16 A No.

17 Q How about workers at the construction company?

18 A No.

19 Q Looking at Exhibit 2, I notice in the column entitled
20 F-O-L., that there are these numbers, for instance,
21 the first number on the first page is P46.

22 A Right.

23 Q And it continues that way on all of these pages with
24 different numbers, would that be a reference to some
25 order number?

1 A That is where -- this would be the -- the -- the journal
2 sheet that it was taken from.

3 Q P46?

4 A Yes.

5 Q So even if we went to a journal sheet it wouldn't tell
6 us what was sold or purchased?

7 A No. Not -- no, not the item, it's just the number,
8 the amount is all that's shown.

9 Q Would the ledger sheet P46 refer us to something that
10 would allow us to tell the product?

11 A Not to the best of my knowledge.

12 Q With the information that's available from Exhibit 2
13 there is no way to go back and look at something else
14 which might, itself, tell us what the product was, to
15 your knowledge?

16 A No.

17 Q Did your company sell the products of Johns-Manville
18 Corporation?

19 A No.

20 Q Never?

21 A No.

22 Q Did your company sell the products of Raymark?

23 A No.

24 MR. GOLDBERG: Off the record.

25 (Discussion off the record.)

1 BY MR. PORTER:

2 Q Or Raybestos products?

3 A No.

4 Q Did you sell the products of Nicolet Insulation?

5 A No.

6 Q Forty-Eight insulation?

7 A I don't remember.

8 Q Standard insulation?

9 A No.

10 Q Do you know when warnings first appeared on asbestos-
11 containing products?

12 A No.

13 Q I understand your testimony was that you yourself never
14 looked at any packaging?

15 A I don't specifically remember going out and looking at
16 a box, I didn't look at the boxes. It didn't make any
17 difference to me what was in the box.

18 Q So you never looked at a box?

19 A No. I mean, I can't say I didn't look at one, but
20 nothing registered, nothing more than it being a box.

21 Q Or bag, as the case may be?

22 A The bag, yes.

23 Q You wouldn't know whether a product came in a box or
24 a bag since you never saw the packaging?

25 A I know that the boxes -- excuse me.

1 MR. JUDE: Let me interject an objection.
2 It's somewhat of a misstatement of his testimony. He
3 did say that he was aware of products coming in boxes
4 or bags, but I think his testimony was that he didn't
5 specifically remember any specifics about that packaging.

6 MR. PORTER: Well, Counsel, I think you
7 ought to let the witness answer, he's perfectly able
8 to say that if he can.

9 MR. JUDE: I believe your question though
10 was a misstatement of his prior testimony.

11 MR. PORTER: And I don't believe it was,
12 but I would like to hear the witness's testimony.

13 MR. JUDE: Okay. Go ahead.

14 A Would you ask the question again please.

15 BY MR. PORTER:

16 Q Do you know whether stuff came in boxes or bags?

17 A Yes. Yes, I do.

18 Q What did cement come in?

19 A Bags.

20 Q And what did an Eagle-Picher cement bag look like?

21 A I don't know. Plain old bag.

22 Q What's a plain old bag?

23 A 50-pound bag or 60-pound bag or 25-pound bag, I don't
24 know how big they were or what coloring they were or

25 --

1 Q But you remember Eagle-Picher, in particular, came in
2 a bag?

3 A That's correct. Cement.

4 Q And it was 50 or so pounds?

5 A Big bag.

6 Q But you don't remember what, if anything, it said on
7 the bag?

8 A No.

9 Q Or the color of the bag or the lettering?

10 A A brown bag.

11 Q Where would you have seen the bag?

12 A On a skid in a warehouse.

13 Q As you walked through?

14 A As I walked by, yes.

15 Q And in the many years you've been in the business you
16 would have walked by occasionally, which is why you
17 remember, but you never looked at it to look at it for
18 a reason?

19 A No.

20 Q Do you know when asbestos was removed from insulation
21 products?

22 A I was told when Fiberglas removed from --

23 Q When meaning?

24 A When Fiberglas removed asbestos I was told that they
25 did it in the late 1972.

1 Q Meaning when you say Fiberglas --

2 A Owens-Corning Fiberglas.

3 Q Owens-Corning Fiberglas. Do you know why they took it
4 out in '72?

5 A I know now, I didn't then. I didn't even know it was
6 in there.

7 Q Why do you -- strike that. What -- strike that. What
8 do you know now about why they did it?

9 A They took it out because asbestos was in the product.

10 Q It's true, isn't it, that your company sold asbestos-
11 containing products for as long as the companies you've
12 talked about made it available?

13 A I did not know that it had asbestos in it at the time.

14 Q I don't say that you did.

15 A Well, I'm only saying that, how else do you want me to
16 answer the question?

17 Q I want you to give me your best recollection. I'll
18 rephrase the question. You told me you didn't know some
19 of these products may have had asbestos during the
20 time they may have had asbestos in them; correct?

21 A Yes.

22 Q You, therefore, did nothing to inform your customers
23 about the presence or absence of asbestos in the
24 products you sold them?

25 MR. JUDE: I'll object to the question

1 based on foundation, assumes a fact that is not in
2 evidence, also assumes that he had an obligation to
3 so inform. With that -- with that objection on the
4 record now you can go ahead and answer it.

5 A I didn't inform having asbestos in it because I didn't
6 know it had any asbestos in it. I didn't even know
7 what asbestos was, I had never heard of it.

8 BY MR. PORTER:

9 Q And I don't say you didn't, I just asked you what seems
10 logical, if you don't know it had asbestos in it you
11 didn't tell anybody anything about asbestos products?

12 A No, I didn't.

13 Q Or lack of asbestos?

14 A That's correct.

15 Q Who would -- who at your company would have been in a
16 position to know when warnings appeared on insulation
17 with asbestos in it?

18 A I don't know whether anybody would.

19 Q And it's possible that nobody would because you, mean-
20 ing the company, would receive an order, place the order
21 with the manufacturer, the material would come into the
22 warehouse, a truck driver would deliver it to the
23 purchaser, therefore, front office people would not
24 have an opportunity to see what the material said or
25 didn't say?

1 MR. JUDE: I'm going to object to the
2 question as assumes certain facts not in evidence.
3 It's not really multiple in form, but I think there's
4 certain assumptions there that need to be broken down
5 before he can answer the question.

6 BY MR. PORTER:

7 Q You may answer the question.

8 MR. JUDE: Are you able to answer the
9 question in the form that he posed it?

10 A I'm not quite sure what he wants to know.

11 MR. PORTER: Read it back.

12 MR. JUDE: Listen to -- she's going to
13 read it back to you now and listen to all he is asking
14 you and try to do the best you can in answering it.

15 (Question read back.)

16 MR. JUDE: He's really asking you in
17 one question what your sales distribution procedure
18 was.

19 A The front office didn't know anything about the material,
20 when it came in or if it came in it would be handled
21 merely -- well, I -- we didn't look at the box, we
22 didn't go out to look at the boxes or examine the
23 material or anything else when it came in, the ware-
24 house people, that was their job.

25 (Discussion off the record.)

1 BY MR. PORTER:

2 Q You're telling me that however it came in that's how
3 it was delivered?

4 A That's correct.

5 Q You're also telling me that people in the front office
6 would have no reason to be familiar with information
7 on the materials packaging?

8 A That's correct.

9 Q Do I understand from that then that front office
10 people would not discuss use or method of application
11 with customers?

12 A The sales people would know how to apply the material.

13 Q I had understood you to say that you made some sales,
14 am I wrong in --

15 A No, I made some sales, you're correct.

16 Q But your sales at least didn't require you to be very
17 familiar with the method of application or specific
18 uses of a product?

19 A No, I sold to applicators.

20 Q What's an applicator?

21 A An applicator was a man who put the product on, they
22 know how to do it, they don't need my help.

23 Q Sprinkmann, in your mind, an applicator?

24 A Yes.

25 Q Who is an applicator that you sold to?

1 A Johnson Insulation, Bertlett's Insulation.

2 Q That's enough, good enough, unless you want to name
3 more.

4 A No.

5 Q So someone from Johnson would call you or you would
6 call someone at Johnson and Johnson would place an
7 order for X rolls of Z material?

8 A Yes.

9 Q There would be no discussion, as a rule, with you about
10 what they were using it for or how they were going to
11 put it on?

12 A No.

13 Q No, there would be no discussion?

14 A No, there would be no discussion.

15 Q Would the person you had contact with at Johnson or
16 whatever the purchaser's name, would that person tell
17 you where to deliver it?

18 A Yes.

19 Q And would the delivery site differ because of the
20 differing project sites of the applicator?

21 A Yes.

22 Q Would any of your records tell us delivery points
23 even if they didn't tell us what was delivered?

24 A Some do.

25 Q Thank you, no other questions.

R E E X A M I N A T I O N:

BY MR. GOLDBERG:

Q I've got one or two. You were asked if you handled certain other products, do you remember handling Keys-be Madison Products (phonetically)?

A No.

Q Do you -- now in speaking of insulation, did you ever sell the spray-on type insulation?

A No.

Q Or any kind of ceiling tile type insulation?

A You mean ceiling tile is one as the same product?

Q A ceiling tile that is used.

A This is a ceiling tile fiberglass, had a ceiling tile, it was an insulating product but it was also an acoustical product.

Q That's the type I'm talking about. Did you use that? Did you sell that I mean?

A Not in Industrial Sales.

Q Now, taking this other corporation that existed from 1940-something on, that was a construction company essentially; is that correct?

A An interior finishing construction company.

Q Did they have a contract unit that did insulating?

A No.

Q So this other corporation -- I would be correct then

1 in stating that this other corporation did not use
2 insulating products of the type you later sold as a
3 partnership --

4 A No.

5 Q -- is that correct?

6 MR. JUDE: Wait.

7 BY MR. GOLDBERG:

8 Q It is correct that your -- that that -- it is correct
9 that that company did not sell the same product?

10 A That's correct.

11 Q Did not use the same product that the partnership
12 sold?

13 A Correct.

14 MR. JUDE: I believe you limited it to
15 insulation products.

16 MR. GOLDBERG: Oh, yes.

17 MR. JUDE: That was the phrase you
18 inserted.

19 MR. GOLDBERG: No, I meant insulation
20 products.

21 A They did install glass insulation underneath garages,
22 apartment type buildings.

23 BY MR. GOLDBERG:

24 Q That was Fiberglas?

25 A Right.

1 Q Going to this Exhibit No. 2 again and skipping the
2 first -- all pages that have Ps on it, which would
3 seem to be the first page only, would there anywhere
4 be an invoice that gave the original information that
5 went onto those pages that don't have a P on them?

6 A No.

7 MR. JUDE: Were they ever in existence?

8 BY MR. GOLDBERG:

9 Q No. Are they presently in existence?

10 A No.

11 Q Can you explain why they would not be in existence
12 today?

13 A Well, we destroyed all the invoices up to 1970.

14 Q When did you do that?

15 A Way back in the -- well, 1970 I think.

16 Q Now, taking -- turning to Page --

17 A It could have been later than 1970.

18 Q Well, I don't think it's -- I'm not pressing that point.

19 Taking Page 117, upper right-hand corner it must be
20 about the fifth -- sixth page down, all right. Taking
21 those items, did those come from some journal?

22 A The journals that are over there.

23 Q Now, what is the difference between -- I'm not a book-
24 keeper -- what is the difference between a journal
25 and these pages here?

1 A These are photocopies of those.

2 Q What is the journal?

3 A Well, it's -- the sales journal keeps -- keeps the
4 records of the sales, a purchase journal keeps the
5 records of the purchases.

6 Q In other words, what you're saying is that these are
7 photostats of the journal?

8 A That's what --

9 Q Oh, I thought I misunderstood, my impression before was
10 that these items came from were entered from a journal
11 and that's wrong.

12 A No, no.

13 Q These are the actual photostats of what you call the
14 journal?

15 A Right.

16 Q They are not two different sets of books?

17 A No.

18 MR. GOLDBERG: Off the record.

19 (Discussion off the record.)

20 MR. GOLDBERG: That's all.

21 E X A M I N A T I O N:

22 BY MR. JUDE:

23 Q As long as you're on Exhibit No. 2, what I'd like you
24 to do is start off with the first page, which has been
25 numbered 31 for purposes of identification, and tell

1 me if that is a record of sales to Sprinkmann from
2 Building Service or is it a record of a purchase from
3 Sprinkmann to Building Service?

4 A A purchase from Sprinkmann by us, by Building Service.

5 Q Okay. And then could you go to Page 32 and indicate
6 again, as between yours and Sprinkmann, what does that
7 record?

8 A This is a purchase from Sprinkmann by us.

9 Q And whatever records other than this ledger that this
10 came from that may identify the type of product that
11 would have been reflected in the sales, those records
12 no longer exist; is that correct?

13 A That's correct.

14 Q All right. Now, Page 1 -- or strike that. Page 42
15 is the next one, there is an entry, September 29, 1954,
16 Sprinkmann appears there. Does this refer to a pur-
17 chase from Sprinkmann or is this a Sprinkmann purchase
18 from Building Service?

19 A A purchase from Sprinkmann.

20 Q All right. And is there any way of telling what was
21 purchased from Sprinkmann at that time?

22 A No.

23 Q The -- what information is on that sheet regarding that
24 purchase? What can you tell us about it by looking at
25 that sheet?

1 A Well, it says it came from Purchase Journal 35 and the
2 amount was \$531.59. I don't know what the date is on
3 the back, what that's for, that's not mine.

4 Q There's some other numbers -- are there some other
5 numbers that appear in the columns under --

6 A That's the cash disbursement, that's when we paid for
7 it.

8 Q Okay. Let me back up a second. This -- this document
9 reflects the amount of the purchase, \$269.38?

10 A Got to go down one more.

11 Q Strike that. \$531.59?

12 A Right.

13 Q Thank you. And it also reflects that that was paid?

14 A That's correct.

15 Q Now, this -- this is a purchase that you made from
16 Sprinkmann?

17 A That's correct.

18 Q All right. So the cash disbursement would show when
19 you paid Sprinkmann for that material; is that right?

20 A That's correct.

21 Q And the Purchase Journal 35 that you're referring to,
22 does that journal exist anywhere today?

23 A Yes.

24 Q All right. So that would be in a separate book?

25 A Well, it's -- this is a photocopy of the journal that

1 exists.

2 Q All right. But when you enter P35 on -- on this par-
3 ticular page, is that -- is that the --

4 A That's it.

5 Q That's -- this is P35 that you're recording it in?

6 A Right.

7 Q All right. Go to the next document, which is 117.

8 Now, is that a record of a sale to Sprinkmann from
9 Building Service?

10 A Yes.

11 Q And one look at 118 and 119, which follow, and I
12 believe you had also previously testified as to those
13 two documents, that they are sales to Sprinkmann from
14 Building Service?

15 A Yes.

16 Q Referring to 117, 118 and 119, is there any record
17 that exists anywhere that you know of that would tell
18 us what type of product was sold to Sprinkmann on
19 those occasions?

20 A No.

21 Q Okay. The next is No. 348, is that a record of a sale
22 to Sprinkmann from Building Service or vice versa?

23 A From Building Service to Sprinkmann.

24 Q And 349?

25 A Yes.

1 Q The same?

2 A Yes.

3 Q And 350?

4 A Yes.

5 Q That's the same also?

6 A Yes.

7 Q And 351, is that also the same?

8 A Yes.

9 Q 352?

10 A Yes.

11 Q And 353?

12 A Yes.

13 Q And 354?

14 A Yes.

15 Q Now, from -- so from Pages 348 to 354, those record

16 sales to Sprinkmann from Building Service --

17 A Yes.

18 Q -- of some product that -- that we distributed; is

19 that correct?

20 A Yes.

21 Q And there -- is there any record anywhere that exists

22 that would tell us what type of product was involved

23 in those sales?

24 A No.

25 Q Referring to Exhibit No. 1, these generally differ from

1 the types of the type of document that's involved in
2 Exhibit No. 2; isn't that correct?

3 A Yes.

4 Q And what is -- what is the difference generally about
5 with these documents?

6 A These are copies of the actual invoices that were sent
7 to Sprinkmann.

8 Q All right. So would it be safe to say that some time
9 before at least 1962 these types of invoices were
10 destroyed in the past?

11 A Yes.

12 Q When I say -- when I say destroyed, what were the
13 circumstances in which they -- they were destroyed,
14 if you remember?

15 A They were just thrown in the trash bin as far as I
16 know.

17 Q Was that for space-saving reasons?

18 A Space saving.

19 Q Now, you testified earlier that you yourself went
20 through records and obtained the documents that are
21 contained in Exhibit No. 2; isn't that right?

22 A Yes.

23 Q I'm sorry, that's Exhibit 1.

24 A Exhibit 1.

25 Q Exhibit 1. And you did this at -- in preparation for

1 today's deposition, as well as other asbestos cases
2 we're involved; isn't that correct?

3 A Yes.

4 Q Now, when you were going through these records were
5 you pulling out every single invoice that had Sprink-
6 mann's name on it?

7 A I looked at all of them.

8 Q Okay. And the copies that you have made here today,
9 does that reflect all of the invoices that -- that you
10 looked at that had Sprinkmann's name on it?

11 A No, these are only the Kaylo products.

12 Q Okay. So you only made copies of the invoices with
13 Sprinkmann & Sons that had Kaylo listed on it?

14 A That's correct.

15 Q Okay. Now, does this document -- this invoice document
16 indicate who may have been the salesperson for Building
17 Service that would have been involved in this sale?

18 A Yes.

19 Q And where does that appear?

20 A That's the handwriting.

21 Q I see. You're referring to the second page, which --
22 well, let's -- let's identify this then. The first
23 page of the exhibit is invoice No. 29195; correct?

24 A That's correct.

25 Q And that's -- that has typewriting appearing on it?

1 today's deposition, as well as other asbestos cases
2 we're involved; isn't that correct?

3 A Yes.

4 Q Now, when you were going through these records were
5 you pulling out every single invoice that had Sprink-
6 mann's name on it?

7 A I looked at all of them.

8 Q Okay. And the copies that you have made here today,
9 does that reflect all of the invoices that -- that you
10 looked at that had Sprinkmann's name on it?

11 A No, these are only the Kaylo products.

12 Q Okay. So you only made copies of the invoices with
13 Sprinkmann & Sons that had Kaylo listed on it?

14 A That's correct.

15 Q Okay. Now, does this document -- this invoice document
16 indicate who may have been the salesperson for Building
17 Service that would have been involved in this sale?

18 A Yes.

19 Q And where does that appear?

20 A That's the handwriting.

21 Q I see. You're referring to the second page, which --
22 well, let's -- let's identify this then. The first
23 page of the exhibit is invoice No. 29195; correct?

24 A That's correct.

25 Q And that's -- that has typewriting appearing on it?

1 A Right.

2 Q The second page is the handwritten page?

3 A That's correct.

4 Q Does this have any reference to the first page?

5 A First page should be a copy of the second page, I
6 didn't examine it.

7 Q Well, do you just want to look at it again to tell us
8 if it is a reply, so to speak, of the first page.

9 A Well, it would be, it appears to be.

10 Q All right. Now that you can tell by the handwriting
11 who is the salesperson involved?

12 A Yes.

13 Q And who was that?

14 A George Leisenring.

15 Q And that order specifies a delivery point; does it not?

16 A Yes.

17 Q And where was this material delivered?

18 A Nelson Dewey, Nelson Dewey Station in Passville, Wiscon-
19 sin.

20 Q By looking at this invoice are you able to tell if
21 Building Services' truck delivered this or if it was
22 delivered direct from a manufacturer?

23 A The routing says prepaid car, how it got there I don't
24 know.

25 Q What does prepaid car mean?

1 A No. If -- if it was a large order it would be directly
2 to the job site, if we didn't have the material which
3 we most -- in most cases we did not, it was shipped
4 directly from the manufacturer to the job site.

5 Q All right. It would not have --

6 A Unless it was in Milwaukee, then it would go directly
7 to the customer in Milwaukee.

8 Q All right. Let's take the Milwaukee geographic area
9 then. Following up on your earlier statement, if a
10 Milwaukee area customer had a large order, how generally
11 would the material get or be shipped to that customer?

12 A If it was a large order it would be directly to the
13 customer or to the job site, whichever he specified.

14 Q All right. If it were a smaller order what would be
15 the case?

16 A If we had it they would pick it up here.

17 Q All right. And if you didn't have it?

18 A We would probably order it, it would either go to them
19 or come to us, depending on how large it was.

20 Q Okay. If there were an order placed for a specific
21 customer at a specific job site and you did not have
22 it available in your facility how would that product
23 routinely be delivered to that customer or job site?

24 A I would presume to save time they would ship it direct,
25 rather than ship it to us and turn around and ship it

1 someplace else.

2 Q Are you testifying from any memory or are you just
3 making an assumption?

4 A A general statement.

5 Q Looking at invoice No. 29196, can you tell us if there
6 is any documentation there that indicates where that
7 material was shipped?

8 A Not on the -- on -- not on the invoice, but on the
9 order preparation that George made.

10 Q And where was that shipped?

11 A Nelson Dewey Station in Passville.

12 Q And do we know how it got there?

13 A Same truck line, Roadway.

14 Q Okay. Now, let's go to invoice No. 63391, dated 3-17-
15 71. Is there any documentation that tells you where
16 that material was delivered?

17 A No.

18 Q Did you look for some documentation?

19 A I wouldn't have it, they picked it up, they didn't tell
20 us where they were taking it.

21 Q Okay. And you can tell that because it says on the
22 invoice itself pick-up?

23 A Right.

24 Q That would mean that they would have picked that up
25 from your -- from Building Services' facility?

1 A That's correct.

2 Q And that facility would be at 620 North 108th Place?

3 A No, we were -- I don't know when we acquired this --
4 this space, but we kept this, we would -- the office
5 was at 620 North 108th Place, but they could have
6 picked it up here rather than over there because I
7 think we moved into this warehouse.

8 Q Okay. And here what is the address of here?

9 A 1610 South 106th Street.

10 Q Okay. So this invoice would not tell you where
11 Sprinkmann eventually delivered this particular
12 product; would it?

13 A No.

14 Q And in a normal course of your business with Sprink-
15 mann -- would your salespeople or yourself know where
16 Sprinkmann was delivering this stuff?

17 A No.

18 Q It was not a question that you would even be interested
19 in; would it?

20 A Well, I would be interested but they weren't very
21 willing to give me the information.

22 Q And why was that?

23 A Because they didn't want us to sell the same people
24 that they were selling.

25 Q They were a competitor, in other words?

1 A That's right.

2 Q They also sold insulation products in the Milwaukee
3 area?

4 A That's correct.

5 Q Now, let me ask you something else that I wish to
6 clarify, in 1952 there was a partnership formed called
7 Building Service Industrial Sales; is that correct?

8 A Yes.

9 Q And now who were the -- who were the partners involved
10 in that?

11 A Joel Rachlin and myself.

12 Q There were just the two partners at that time?

13 A Yes.

14 Q And those were the only two partners in this business
15 up until the time it was incorporated?

16 A That's correct.

17 Q All right. Now, when you started in 1952 with the
18 two partners were there other employees of the partner-
19 ship, so to speak, other than yourself and Mr. Rachlin?

20 A Yes, there were other employees.

21 Q And what type of work did these other employees do?

22 A In 1952 they worked in the warehouse.

23 Q Were there -- it would have been some clerical person
24 or not?

25 A Not -- not in 1952. When we started, I don't know,

1 when somebody else took over the paperwork, probably
2 a year or two later.

3 Q Did you do the paperwork at that time?

4 MR. GOLDBERG: Your answer is yes?

5 A Yes.

6 BY MR. JUDE:

7 Q And the other people that worked in the warehouse,
8 what kind of work would they be doing?

9 A If we had the material in stock they would be getting
10 it out and getting it ready to give to the customer.

11 Q Okay. Do you know how many people were involved in
12 that?

13 A One.

14 Q Now, sometime later somebody else took over the record
15 keeping?

16 A Yes.

17 Q Is that a fair statement? Obvious statement, I guess.
18 In terms of looking at the sales journal or the ledger
19 sheets are you able to determine by -- let's say by
20 1955, is that your handwriting or somebody else's
21 handwriting?

22 A It's somebody else's.

23 Q And do you know who that person would be?

24 A No.

25 Q And when you -- you would -- referred earlier to two

1 warehouses, I believe, or maybe more than two?

2 A Yes.

3 Q Now, other than the warehouse that we're in today at
4 this particular address was there another warehouse
5 that Building Service operated from? Building Service
6 Industrial Sales operated from?

7 A We stored material in the buildings, we had no personnel
8 except the personnel that came from the main warehouse.

9 Q All right. This was all considered the main warehouse?

10 A Yes.

11 Q And what type of material -- strike that. So you had
12 a separate warehouse that was used for storage?

13 A Correct.

14 Q And where was that?

15 A Well, there was one on 108th Place, there was one out
16 in -- off of Sunnyslope Road, I guess, I don't even
17 remember, I can take you to it.

18 Q And you shared that with Building Service, Inc.?

19 A We shared one with Building Service, Incorporated,
20 the other two that I recall were just buildings where
21 we stored material.

22 Q Okay. And generally what kind of material was stored
23 in -- let's say in the -- well, strike that. Was the
24 third warehouse just used by Building Service, Inc.
25 or was it also used by Industrial Sales?

1 A The other two warehouses were strictly Industrial Sales
2 warehouses.

3 Q And what type of material were stored in those other
4 two warehouses?

5 A Glass products from Fiberglas.

6 Q And what type of material was stored in the main ware-
7 house here?

8 A Same kind.

9 Q Can you recall as you sit here today that any calcium
10 silicate was ever stored in those warehouses?

11 A No.

12 Q Do you recall any Kaylo or Unibestos being stored in
13 the warehouses?

14 A Kaylo at the end.

15 Q At --

16 A Just before we came into here there was Kaylo products
17 in them but no Unibestos or Unarco.

18 Q What time period are you talking about?

19 A I'd have to look to see when we came in here, I don't
20 know.

21 Q That's -- you're referring to the warehouse at 106th
22 Place?

23 A That warehouse we had since 1949. I'm talking about
24 this building, I don't know when we moved in here.

25 Q Okay. You had also referred to the State of Wisconsin

1 as sort of the territory for the company on earlier
2 testimony. Were you personally involved in sales
3 throughout the State of Wisconsin?

4 A No.

5 Q Did you have a particular geographic area that you
6 concentrated on?

7 A No. I called on insulation applicators.

8 Q And those applicators were located throughout the State
9 of Wisconsin?

10 A Yes. One in Appleton and Madison.

11 Q And you mentioned those names before?

12 A Yes.

13 Q And had you -- were you personally involved in sales
14 of insulation products other than fiberglass to these
15 applicators?

16 A No.

17 Q Do you recall ever selling any calcium silicate to
18 these applicators?

19 A No.

20 Q Were you involved in selling any Eagle-Picher cement
21 to these applicators?

22 A Not to the best of my knowledge.

23 Q You were aware that it was -- that there were some
24 sales through the company of Eagle-Picher but you
25 weren't involved in that?

1 A That's correct.

2 Q All right. Had you ever studied, taken any courses in,
3 read anything about high temperature insulation before
4 1972?

5 A No.

6 Q I guess I have no further questions.

7 R E E X A M I N A T I O N:

8 BY MR. GOLDBERG:

9 Q Just a very short one. Now, you mentioned that Johns
10 -- Sprinkmann was a competition of yours, do you know
11 what product they handled in competition with you?
12 Let's take the period 1952 to '59, were they your --
13 considered your competition at that time?

14 A No.

15 Q Would you recognize if they handled a product called
16 Ehert, E-h-e-r-t?

17 A I don't know.

18 Q Or did you handle any products of Ehert?

19 A No.

20 Q Or Baldwin, Ehert, Hill?

21 A No.

22 Q Do you recognize any products -- Carey products? C-
23 a-r-e-y.

24 A No.

25 Q Or Phillip Carey?

1 A No.

2 Q At anytime when you would have considered them your
3 competition do you know what product they handled?
4 I'm going into the '60s now, or anytime.

5 A They handled a Johns-Manville products.

6 Q At what period do you think that was?

7 A As long as I can remember.

8 Q Now, just one thing, I notice on the bottom of these
9 invoices you actually have Fiberglas printed on there,
10 that refers to Owens-Corning Fiberglas; is that correct?

11 A That's correct.

12 MR. JUDE: It says Owens-Corning
13 Fiberglas.

14 MR. GOLDBERG: It's so small I can't
15 read it.

16 BY MR. GOLDBERG:

17 Q In other words, did you so closely identify yourself
18 with Owens-Corning Fiberglas that you put it as part
19 of your invoice during your tenure as a company?

20 A That started when Fiberglas was the only people that
21 had fiberglass insulation.

22 Q Back in the '50s did you also put them down on your
23 invoices?

24 A I don't recall.

25 Q Do you recall when you started to put them down on

1 your invoices?

2 A No.

3 Q I think that's all.

4 R E E X A M I N A T I O N:

5 BY MR. PORTER:

6 Q Sir, you said that in your search of the records you
7 just looked for invoices of sales to Sprinkmann that
8 said Kaylo, why did you restrict yourself to Kaylo?

9 A That's what I understood we were talking about, you're
10 not interested in glass products; are you?

11 Q No, sir, but we are interested in all possible asbestos-
12 containing products, one that you have identified is
13 Eagle-Picher cement. I gather you did not look for
14 invoices of sales to Sprinkmann for Eagle-Picher cement?

15 A That's correct.

16 Q So there might be such invoices?

17 A That's correct.

18 MR. JUDE: We can look now, Counsel,
19 if you want.

20 MR. PORTER: For the record, there
21 appear to be eight boxes, there are three --

22 MR. GOLDBERG: Eight?

23 MR. PORTER: There are three under the
24 table.

25 MR. GOLDBERG: Oh, I'm sorry.

1 MR. PORTER: I don't require that these
2 witnesses go through those boxes right now. If they
3 want to look here after they may and we can always
4 reconvene. I wouldn't inconvenience them on the spot.

5 BY MR. PORTER:

6 Q What I'm trying to think of is this, the question I
7 want to ask you, sir, is, since you only looked for
8 Kaylo, if there are other products as to which there
9 were invoices you neither looked nor found -- you
10 neither looked for nor found those; is that right?

11 A I didn't look for them.

12 Q That's all, thank you.

13 (Witness excused at 12:35 p.m.)
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1 STATE OF WISCONSIN)
2) SS:
3 MILWAUKEE COUNTY)

4 I, LORI J. CUNICO, a Notary Public in
5 and for Milwaukee County, State of Wisconsin, do hereby
6 certify that the deposition of DONALD C. POPALISKY, called
7 as a witness upon the trial, was taken at the instance of
8 the Plaintiffs, before me, at offices located at 1710 South
9 106th Street, Milwaukee, Wisconsin, on the 17th day of March,
10 1987, commencing at 10:00 o'clock in the morning.

11 That the same was taken to be used in an
12 action now pending in the Circuit Court of Milwaukee County,
13 in which HUGH C. SCHIEFER and PATRICIA A. SCHIEFER are the
14 Plaintiffs, and KEENE CORPORATION, a foreign corporation,
15 et al., are the Defendants.

16 That the appearances were as follows:

17 GOLDBERG, PREVIAINT, UELMEN, GRATZ,
18 MILLER & BRUEGGEMAN, S.C., by ALBERT J. GOLDBERG, ESQ.,
19 788 North Jefferson Street, Milwaukee, Wisconsin, appeared
20 on behalf of the Plaintiffs.

21 FOLEY & LARDNER, by RICHARD H. PORTER,
22 ESQ., 777 East Wisconsin Avenue, Milwaukee, Wisconsin,
23 appeared on behalf of all Defendants except Nicolet, Inc.,
24 Raymark, Inc. and Building Services Industrial Sales Company,
25 Inc.

1 ALBERT, JUDE & VAN REMMEN, S.C., by
2 JOHN S. JUDE, ESQ., 524 Seventh Street, P.O. Box 456,
3 Racine, Wisconsin, appeared on behalf of Building Services
4 Industrial Sales Company, Inc.

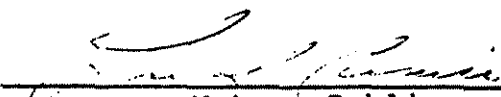
5 GREGORY B. HAYS, ESQ., 7635 West Blue-
6 mound Road, Milwaukee, Wisconsin, appeared on behalf of
7 Building Services Industrial Sales Company, Inc.

8 That at the taking of said deposition,
9 it was stipulated by and between counsel for the respective
10 parties that the reading of the deposition by, or to said
11 witness and affixing his signature thereto was waived.

12 That before said witness testified, he
13 was first duly sworn, by me, to testify the truth, the whole
14 truth, and nothing but the truth relative to said cause.

15 That the foregoing proceedings are true
16 and correct as reflected by my original machine shorthand
17 notes taken at said time and place.

18
19 Dated at Milwaukee, Wisconsin,
20 this 27 day of March, 1987.

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Notary-Public
State of Wisconsin

My commission expires 2-5-88.